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# FOIL REGULATIONS FOR HCR

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### 2650.1 Purpose.

(a) These regulations provide information concerning the procedures by which records of the Division of Housing and Community Renewal (hereinafter "division") may be obtained. These procedures are in compliance with article 6 of the Public Officers Law, entitled "Freedom of Information Law."

(b) Division personnel shall furnish to the public the information and records required by the Freedom of Information Law, as well as records otherwise available by law.

(c) Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

### 2650.2 Records access officer.

(a) The division's records access officer is responsible for ensuring appropriate responses to public requests for access to records. All references herein to records access officer shall include his or her designees and shall not be construed to prohibit other division employees, who are also authorized to make records available to the public, from doing so.

(b) The division shall maintain a current list by subject matter of records and assist persons seeking records to identify the records sought, if necessary. The list shall be sufficiently detailed to permit identification of the category of the records sought and shall be posted on the division's website. Additionally, the list shall be updated annually and the date of the most recent update shall be conspicuously indicated on the list.

### 2650.3 Locations and hours for public access.

(a) Records maintained by the division's Office of Rent Administration are available for public inspection and copying, upon request and appointment, at the division office located in Jamaica, New York. Requests for information and records can be made to that office by writing to: Records Access Officer, Division of Housing and Community Renewal, Office of Rent Administration, Gertz Plaza, 92-31 Union Hall Street, Jamaica, NY 11433, e-mail: ORAFOIL@nysdhcr.gov

(b) Records maintained by the Division's Office of Community Development and the Office of Community Renewal are available for public inspection and copying, upon request and appointment, at the division office located in Albany, New York. Requests for information and records can be made to that office by writing to: Records Access Officer, Division of Housing and Community Renewal, Hampton Plaza, 38-40 State Street, Albany, NY 12207, e-mail: CDFOIL@nysdhcr.gov

(c) All other records maintained by the division, including housing operation records, are available for public inspection and copying, upon request and appointment, at the division office located at 25 Beaver Street, New York, New York. Requests for information and records can be made to that office by writing to: Records Access Officer, Division of Housing and Community Renewal, 25 Beaver Street - 7th Floor, New York, NY 10004, e-mail: FOIL@nysdhcr.gov

(d) The records access officer may designate another location in which a requestor may review records.

(e) Requests for public access to records shall be accepted and records produced during all hours the division is regularly open for business.

#### 2650.4 Requests for public access to records.

**(a) All requests shall be made in writing.**

Requests for records may be submitted by electronic mail.

**(b) Requests shall reasonably describe the record sought.**

To the extent possible, the requestor shall supply identifying information that will assist the division in locating the records sought. In the absence of such identification, the division may seek clarification from the requestor, in order for the request to be considered.

(c) The division shall be required to produce only records maintained by or for the division at the time of the request, with the exception of documents that are exempt from disclosure pursuant to the Public Officers Law, or any other applicable law, regulation or order of a court of competent jurisdiction. The records access officer shall provide, in writing, the reason for any such withholding.

(d) If records are maintained on the internet, the requester shall be informed that the records are accessible via the internet and in printed form either on paper or other information storage medium.

#### 2650.5 Responses to requests.

(a) The records access officer shall within five business days of receiving a request for documents:

(1) grant access to the records, in whole or in part; or

(2) deny the request, in whole or in part, and state the reason therefor; or

(3) if the request does not clearly identify the records sought, seek additional information from the requestor; or

(4) acknowledge receipt of the request and provide a statement of the reasonable approximate date when the request will be granted or denied. If the circumstances prevent disclosure to the person requesting the record or records within 20 business days from the date of the acknowledgment of the receipt of the request, the division shall state, in writing, the reason for the delay and provide a date certain when the request will be granted in whole or in part.

(b) The division shall respond by electronic mail to requests submitted by such mail, to the extent practicable, unless a response in some other form is requested. The division shall respond to all other written requests by electronic mail, if possible, upon request.

#### 2650.6 Fees.

(a) No charge will be made to inspect a record, certify a record or to certify a denial of a request for a record and the reason therefor.

- (b) A charge will be made of 25 cents per page for photocopying of pages that are not larger than 9 inches by 14 inches. There will no charge for the first five pages.
- (c) Charges for materials or services other than paper shall be based on the actual cost to the division.
- (d) Payments for copy charges or charges for other materials or services shall be made by check or money order payable to "New York State Division of Housing and Community Renewal."
- (e) The requestor shall be notified of the amount of the fee.

#### 2650.7 Denial of access to records.

- (a) Denial of access to records maintained by the division's Office of Rent Administration shall be in writing, stating the reason therefor and advising the requestor of the right to appeal to: Records Appeals Officer, Division of Housing and Community Renewal, Office of Rent Administration, Gertz Plaza, 92-31 Union Hall Street, Jamaica, NY 11433
- (b) Denial of access to all other records maintained by the division shall be in writing, stating the reason therefor and advising the requestor of the right to appeal to: Records Appeals Officer, Office of the General Counsel, Division of Housing and Community Renewal, 25 Beaver Street - 7th Floor, New York, NY 10004.
- (c) When the records access officer has denied a request for records in whole or in part, the requestor may, within 30 days of the date of such denial, appeal the denial to the records appeals officer.
- (d) The division's failure to comply with the time limitations provided in section 2650.5 of this Part shall constitute a denial of access to records that may be appealed.
- (e) The records appeals officer will forward to the Committee on Open Government copies of all appeals upon receipt.
- (f) The records appeals officer will determine an appeal within 10 business days of its receipt by granting access to the records sought or fully explaining the reasons for further denial in writing.
- (g) The decision by the records appeals officer will constitute a final determination of the division, with respect to the request for records and a copy will be sent to the Committee on Open Government.
- (h) A proceeding to review an adverse determination on appeal may be commenced, pursuant to article 78 of the Civil Practice Laws and Rules.

#### 2650.8 Posted notice.

The division shall cause to be conspicuously displayed at each location where records are kept, a notice clearly indicating:

- (a) the title and business address of the records access officers and appeals officers; and
- (b) the location where records can be seen.

#### 2650.9 Trade secret and commercial information exceptions.

(a) The records access officer shall, pursuant to article 6 of the Public Officers Law, deny a request for records or portions thereof that are trade secrets or are submitted to the division by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise.

(b) Any party submitting records to the division that seeks an exemption from disclosure on the ground stated in subdivision (a) of this section shall:

(1) submit a written request for an exemption from disclosure to the records access officer;

(2) submit the request at the time the records purportedly containing trade secret information or confidential commercial information are submitted to the division; and

(3) the party who seeks an exemption from disclosure shall:

(i) clearly identify the trade secret information or the confidential commercial information likely to cause substantial competitive injury;

(ii) include the name and title of an individual who may be contacted concerning the request; and

(iii) state reasons why the information is either a trade secret or confidential commercial information likely to cause substantial competitive injury if disclosed.

(c) With respect to information submitted as provided for in subdivision 5 of section 89 of the Public Officers Law, such information shall be excepted from disclosure and maintained by the division apart from all other records until 15 days after the entitlement to such exception has been finally determined or such further time as ordered by a court of competent jurisdiction. The records access officer shall be responsible for the custody of such information. Each division employee who has custody of such information shall take appropriate measures to safeguard such records and to protect against their unauthorized disclosure.

(d) Within seven business days of receipt of a request pursuant to subdivision (b) of this section, the division shall issue a written determination granting or denying such exception and stating the reasons therefor. Copies of such determinations shall be served upon the person, if any, requesting the record, the person who requested the exception and the Committee on Open Government.

(e) A denial of an exception from disclosure may be appealed by the person submitting the information and a denial of access to the record may be appealed by the person requesting the record.

(f) Within seven business days of receipt of written notice denying the request, the person may file a written appeal from the division's determination with the records appeals officer.

(g) The appeal shall be determined within 10 business days of the receipt of the appeal. Written notice of the determination of such appeal shall be served upon the person, if any, requesting the record, the person who requested the exception and the Committee on Open Government. The notice shall contain a statement of the reasons for the determination.

(h) A proceeding to review a determination adverse to a person requesting an exception from disclosure pursuant to this subdivision may be commenced pursuant to article 78 of the Civil Practice Law and Rules. Such proceeding must be commenced within 15 days of the service of the written notice containing the adverse determination.

2650.10 Severability.

If any provision of these regulations or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of these regulations or the application thereof to other persons and circumstances.

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(Statutory authority: Private Housing Finance Law, § 44[4]; Public Officers Law, §§ 87[b], 88[2])  
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21 CRR-NY 2150.1  
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2150.1 Purpose and scope.

- (a) The people's right to know the process of government decisionmaking and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.
- (b) This Part provides information concerning the procedures by which records may be obtained.
- (c) Personnel shall furnish to the public the information and records required by the Freedom of Information Law, as well as records otherwise available by law.
- (d) Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

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## 2150.2 Designation of records access officers.

(a) The executive director is responsible for insuring compliance with this Part, and designates the following persons as records access officers:

Associate Administrative Analyst

New York State Housing Finance Agency

Three Park Avenue

33rd Floor

New York, NY 10016

Senior Research Analyst

New York State Housing Finance Agency

Three Park Avenue

33rd Floor

New York, NY 10016

(b) Records access officers are responsible for ensuring appropriate agency response to public requests for access to records. The designation of records access officers shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so. Records access officers shall insure that personnel:

- (1) maintain an up-to-date subject matter list updated not less than twice per year;
- (2) assist the requester in identifying requested records, if necessary;
- (3) upon locating the records, take one of the following actions:
  - (i) make records available for inspection; or
  - (ii) deny access to the records in whole or in part, and explain in writing the reasons therefor;
- (4) upon request for copies of records:
  - (i) make a copy available upon payment or offer to pay established fees, if any, in accordance with section 2150.8 of this Part; or
  - (ii) permit the requester to copy those records;
- (5) upon request, certify that a record is a true copy; and
- (6) upon failure to locate records, certify that:
  - (i) the New York State Housing Finance Agency is not the custodian for such records; or
  - (ii) the records of which the New York State Housing Finance Agency is a custodian cannot be found after diligent search.

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2150.3 Location.

Records shall be available for public inspection and copying at: Three Park Avenue, 33rd Floor, New York, NY 10016.

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2150.4 Hours for public inspection.

Requests for public access to records shall be accepted and records produced during all hours regularly open for business. These hours are: Monday through Friday, 9 a.m. to 5 p.m.

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## 2150.5 Requests for public access to records.

- (a) A written request may be required, but oral requests may be accepted when records are readily available.
- (b) A response shall be given regarding any request reasonably describing the record or records sought within five business days of receipt of the request.
- (c) A request shall reasonably describe the record or records sought. Whenever possible, a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought.
- (d) If the records access officer does not provide or deny access to the record sought within five business days of receipt of a request, he or she shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied. If access to records is neither granted nor denied within 10 business days after the date of acknowledgment of receipt of a request, the request may be construed as a denial of access that may be appealed.

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2150.6 Subject matter list.

- (a) The records access officer shall maintain a reasonably detailed current list, by subject matter, of all records in its possession, whether or not records are available pursuant to subdivision 2 of section 87 of the Public Officers Law.
- (b) The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.
- (c) The subject matter list shall be updated not less than twice per year. The most recent update shall appear on the first page of the subject matter list.

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2150.7 Denial of access to records.

(a) Denial of access to records shall be in writing, stating the reason therefor and advising the requester of the right to appeal to the individual or body established to hear appeals.

(b) If requested records are not provided promptly, as required in section 2150.5(d) of this Part, such failure shall also be deemed a denial of access.

(c) The following person or persons or body shall hear appeals for denial of access to records under the Freedom of Information Law:

Counsel, New York State Housing Finance Agency

3 Park Avenue

33rd Floor

New York, NY 10016

(212) 736-4949

(d) The time for deciding an appeal by the individual or body designated to hear appeals shall commence upon receipt of a written appeal, identifying:

- (1) the date of the appeal;
- (2) the date and location of the requests for records;
- (3) the records to which the requester was denied access;
- (4) whether the denial of access was in writing or due to failure to provide records promptly as required by section 2150.5 of this Part; and
- (5) the name and return address of the requester.

(e) The individual or body designated to hear appeals shall inform the requester of its decision, in writing, within seven business days of receipt of an appeal.

(f) The person or body designated to hear appeals shall transmit to the Committee on Public Access to Records copies of all appeals upon receipt of appeals. Such copies shall be addressed to:

Committee on Public Access to Records

Department of State

162 Washington Avenue

Albany, NY 12231

(g) The person or body designated to hear appeals shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to:

Committee on Open Government

Department of State

One Commerce Plaza

99 Washington Avenue

Albany, New York 12231

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2150.8 Fees.

(a) There shall be no fee charged for:

- (1) inspection of records;
- (2) search for records; or
- (3) any certification pursuant to this Part.

(b) The fee for photocopies not exceeding 8 1/2 by 14 inches is 25 cents per page. The fee for copies of records other than photocopies which are 8 1/2 by 14 inches or less in size shall be the actual copying cost, excluding fixed agency costs such as salaries.

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2150.9 Public notice.

A notice containing the title or name and business address of the records access officers and appeals person or body, and the location where records can be seen or copied, shall be posted in a conspicuous location wherever records are kept and/or published in a local newspaper of general circulation.

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**2150.10 Severability.**

If any provision of this Part or the application thereof to any person or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Part or the application thereof to other persons and circumstances.

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21 CRR-NY 2250.1  
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2250.1 Purpose and scope.

- (a) The people's right to know the process of government decisionmaking and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.
- (b) This Part provides information concerning the procedures by which records may be obtained.
- (c) Personnel shall furnish to the public the information and records required by the Freedom of Information Law and those which were furnished to the public prior to its enactment.
- (d) Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

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## 2250.2 Designation of records access officer.

(a) The chairman and chief executive officer is responsible for insuring compliance with this Part, and designates the following person as records access officer: Treasurer, 405 Lexington Avenue, New York, NY 10017.

(b) The records access officer is responsible for insuring appropriate agency response to public requests for access to records. However, the public shall not be denied access to records through officials who have in the past been authorized to make records or information available. The records access officer shall assure that personnel:

- (1) maintain an up-to-date subject matter list updated not less than twice per year;
- (2) assist the requester in identifying requested records, if necessary;
- (3) upon locating the records, take one of the following actions in accordance with section 2250.6(b) of this Part:
  - (i) make records promptly available for inspection; or
  - (ii) deny access to the records in whole or in part and explain in writing the reasons therefor:
- (4) upon request for copies of records:
  - (i) make copy available upon payment or offer to pay established fees, if any, in accordance with section 2250.8 of this Part; or
  - (ii) permit the requester to copy those records;
- (5) upon request, certify that a transcript is a true copy of records copied;
- (6) upon failure to locate records, certify that:
  - (i) the State of New York Mortgage Agency is not the legal custodian for such records; or
  - (ii) the records of which the State of New York Mortgage Agency is a legal custodian, after diligent search, cannot be found.

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2250.3 Designation of fiscal officer.

(a) The Treasurer, 405 Lexington Avenue, New York, NY 10017 is designated the fiscal officer, who shall certify the payroll and respond to requests, in accordance with section 2250.6(b) of this Part, for an itemized record setting forth the name, address, title and salary of every officer or employee of the agency.

(b) The fiscal officer shall make the payroll items listed previously, available to any person including bona fide members of the news media as required under section 88(1)(g), (1)(i) and (10) of the Freedom of Information Law.

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2250.4 Location.

Records shall be made available for public inspection and copying at: 405 Lexington Avenue, New York, NY 10017, or at the location where they are kept.

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2250.5 Hours for public inspection.

Requests for public access to records shall be accepted and records produced during all hours regularly open for business. These hours are: Monday through Friday, 9 a.m. to 5 p.m.

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**2250.6 Requests for public access to records.**

(a) Where a request for records is required, such request may be oral or in writing. However, written requests shall not be required for records that have been customarily available without written request.

(b)

(1) Except under extraordinary circumstances, officials shall respond to a request for records no more than five business days after receipt of the request, whether the request is oral or in writing.

(2) If, because of extraordinary circumstances, more than five business days are required to respond to a request, receipt of the request shall be acknowledged within five business days after the request is received. The acknowledgment shall state the reason for delay and estimate the date when a reply will be made.

(c) A request for access to records should be sufficiently detailed to identify the records. Where possible, the requester should supply information regarding dates, titles, file designations or other information which may help identify the records. However, a request for any or all records falling within a specific category conforms to the standards that records be identifiable.

(d)

(1) A current list, by subject matter, of all records produced, filed, or first kept or promulgated after September 1, 1974 shall be available for public inspection and copying. The list shall be sufficiently detailed to permit the requester to identify the file category of the records sought.

(2) The subject matter list shall be updated periodically and the date of the most recent updating shall appear on the first page. The updating of the subject matter list shall not be less than semiannual.

(e) No records may be removed by the requester from the office where the record is located without the permission of the records access officer.

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## 2250.7 Denial of access to records.

(a) Denial of access to records shall be in writing, stating the reason therefor and advising the requester of the right to appeal to the individual to hear appeals.

(b) If requested records are not provided promptly, as required in section 2250.6(b) of this Part, such failure shall also be deemed a denial of access.

(c) The following person shall hear appeals for denial of access to records under the Freedom of Information Law: Chairman and Chief Executive Officer, State of New York Mortgage Agency, 405 Lexington Avenue, New York, NY 10017, telephone (212) 682-1043.

(d) The time for deciding an appeal by the individual designated to hear appeals shall commence upon receipt of written appeal identifying:

- (1) the date of the appeal;
- (2) the date and location of the requests for records;
- (3) the records to which the requester was denied access;
- (4) whether the denial of access was in writing or was by failure to provide records promptly as required by section 2250.6(b) of this Part; and
- (5) the name and return address of the requester.

(e) The individual designated to hear appeals shall inform the requester of his decision in writing within seven business days of receipt of an appeal.

(f) The person or body designated to hear appeals shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to:

Committee on Open Government

Department of State

One Commerce Plaza

99 Washington Avenue

Albany, New York 12231

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2250.8 Fees.

(a) There shall be no fee charged for:

- (1) inspection of records;
- (2) search for records;
- (3) any certification pursuant to this Part.

(b)

- (1) The fee for photocopies not exceeding 8½ by 14 inches is 25 cents per page.
- (2) The fee for copies of records other than photocopies which are 8½ by 14 inches or less in size shall be the actual copying cost excluding fixed agency costs such as salaries.

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2250.9 Public notice.

A notice—containing the job title or name and business address of the records access officer and fiscal officer; the name, job title, business address and telephone number of the appeal person; and the location where records can be seen or copied—shall be posted in a conspicuous location wherever records are kept and/or published in a local newspaper of general circulation.

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**2250.10 Severability.**

Any provision of this Part or the application thereof to any person or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Part; or the application thereof to other persons and circumstances.

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